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SERVICE DATE – FEBRUARY 6, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-865X

HONEY CREEK RAILROAD, INC.–ABANDONMENT EXEMPTION–
IN HENRY COUNTY, IN

Decided: February 3, 2006

The Honey Creek Railroad, Inc. (HCR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon its entire approximately 5.9-mile line of railroad, between Sulphur Springs and New Castle, in Henry County, IN. Notice of the exemption was served and published in the Federal Register on August 20, 2004 (69 FR 51751). In the August 20 notice, the Board stated that, if consummation had not been effected by HCR's filing of a notice of consummation by August 20, 2005, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served on September 20, 2004, the proceeding was reopened and a 180-day period was authorized for the Indiana Trails Fund, Inc. (ITF), to negotiate an interim trail use/rail banking agreement with HCR for the entire line pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).¹ The trail use negotiating period expired on March 20, 2005.

By decision served on July 22, 2005, the due date for filing a notice of consummation was extended to February 16, 2006.

On January 30, 2006, HCR filed a request to further extend for 180 days (until August 15, 2006) the time to file its notice of consummation. HCR states that the additional time is needed so that the legal issues presented in its litigation pending in the Henry County Circuit Court can be properly resolved. HCR also maintains that the extension will afford the parties and the court an adequate period of time in which to obtain from the Board whatever advisory guidance the court determines is appropriate and to resolve the litigation currently pending before it.

Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. Good cause has been shown and the deadline for filing the notice of consummation will accordingly be extended to August 15, 2006.

¹ The September 20, 2004 decision also imposed a public use condition, which expired on March 20, 2005, and several environmental conditions, which remain in effect.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. HCR's request for an extension of time to file a notice of consummation is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before August 15, 2006.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary